

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 07-235(DWF/JSM)

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	<b>PLEA AGREEMENT AND</b>
v.	)	<b>SENTENCING STIPULATIONS</b>
	)	
AHMED HADI AL JEBORY,	)	
	)	
Defendant.	)	

The United States by its attorneys, Frank J. Magill, Acting United States Attorney for the District of Minnesota, and Tracy L. Perzel, Assistant United States Attorney, and the defendant, Ahmed Hadi Al Jebory and with his attorney, Thomas Dunnwald, Esq., hereby agree to dispose of this case on the terms and conditions that follow. This plea agreement is binding only on the defendant and the United States Attorney's Office for the District of Minnesota. This agreement is not binding upon any other United States Attorney's Office or any other federal or state agency.

1. Charges. The defendant agrees to plead guilty to count 1 of the Indictment. Count 1 alleges from a time unknown through on or about February 2, 2007, in the State and District of Minnesota, the defendant, Ahmed Hadi Al Jebory, knowingly and intentionally conspired with Mohammed Hadi Al Jebory and with others whose names are known and unknown to the grand jury to distribute at least 5 grams of a mixture and substance containing cocaine base (crack), a controlled substance, and a mixture and substance containing a detectable amount of cocaine, a controlled

substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B), and 846.

2. Factual Basis. The defendant agrees to the following facts and further agrees that, were this matter to go to trial, the United States would prove the following facts beyond a reasonable doubt:

a. Before February 2, 2007, in the State and District of Minnesota, the defendant did unlawfully, knowingly and intentionally conspire with Mohammed Hadi Al Jebory and others to possess with intent to distribute and to distribute 19.5 grams of a mixture and substance containing a detectable amount of cocaine base (crack), a controlled substance, and 95.6 grams of a mixture and substance containing a detectable amount of cocaine, a controlled substance.

b. The defendant stipulates and agrees that before February 2, 2007, he and one or more persons reached an agreement or came to an understanding to distribute cocaine base (crack); he aided another to distribute and to possess with intent to distribute 19.5 grams of a mixture and substance containing cocaine base (crack); that he voluntarily and knowingly joined in the agreement or understanding when it was first reached or at some time later while it was still in effect; that at that time he joined in the agreement or understanding he knew of its purpose; and that he knew his actions violated the law.

3. Statutory Penalties. The parties agree that Count 1, as charged in the indictment and to which the defendant is pleading guilty carry statutory penalties of:

- a. a mandatory minimum of five years imprisonment;
- b. a maximum of 40 years imprisonment;
- c. a fine of up to \$2,000,000;
- d. a supervised release term of at least four years;
- e. a mandatory special assessment of \$100; and
- f. possible denial of federal benefits under 21 U.S.C. § 862(a)(1).

4. Revocation of Supervised Release. The defendant understands that if he were to violate any condition of supervised release, he could be sentenced to an additional term of imprisonment up to the length of the original supervised release term, subject to the statutory maximums set forth in 18 U.S.C. § 3583.

5. Guideline Calculations. The defendant will be sentenced in accordance with the Federal Sentencing Act, 18 U.S.C. § 3551, *et seq.*, in light of the Supreme Court's decision in United States v. Booker, which makes the Guidelines advisory but also requires the Court to consider the Guidelines range in determining the appropriate sentence. The defendant understands that the proper application of those Guidelines is a matter solely within the discretion of the Court. The parties understand that the parties'

Guidelines analysis is not binding on the Court. If the Court does not accept the parties' Guidelines analysis, the defendant may not withdraw from the plea agreement based upon that ground and will be sentenced pursuant to the Court's determinations. The parties agree that the applicable Guidelines calculations and Guidelines range are identified below.

a. Base Offense Level. The Base Offense Level applicable to the quantity of drugs involved in the defendant's offense - 19.5 grams of cocaine base and 95.6 grams of cocaine - is 26. (U.S.S.G. § 2D1.1 Drug Quantity Table; U.S.S.G. § 2D1.1 Commentary, n.10; U.S.S.G. § 2D1.1 Drug Equivalency Table.)

b. Specific Offense Characteristics. The parties disagree as to whether a two-level upward adjustment applies for possession of a firearm by a coconspirator. (U.S.S.G. § 2D1.1(b)(1).) The United States may seek such an adjustment, and the defendant will oppose it. The parties agree that no other specific offense characteristics apply. (U.S.S.G. § 2D1.1(b)(2-11).)

c. Chapter 3 Adjustments. The parties agree that no chapter 3 adjustments apply in this case.

d. Acceptance of Responsibility. The government will recommend that the defendant receive a two-level reduction for acceptance of responsibility and will move for an additional one-level reduction, provided he: (1) testifies truthfully during the

change of plea hearing; (2) provides full, complete, and truthful disclosures to the United States Probation Office; and (3) engages in no other conduct which is inconsistent with acceptance of responsibility before the time of sentencing. U.S.S.G. §§ 3E1.1(a), 3E1.1(b). Whether there will be a reduction for acceptance of responsibility will be determined by the Court in its discretion.

e. Criminal History Category. Based on information available at this time, the parties believe the defendant's criminal history category is II. This does not constitute a stipulation, but a belief based on an assessment of the information currently known. The defendant's actual criminal history and related status will be determined by the Court based on the information presented in the Presentence Report and by the parties at the time of sentencing. If the defendant's criminal history category, as finally computed with the aid of the Presentence Report is other than category II, neither party may withdraw from the plea agreement based upon that ground.

f. Guideline Range. The defendant understands he is subject to a five-year mandatory minimum term of imprisonment. Based on the above guideline calculations, the potential advisory guideline ranges are:

1. 63-78 months imprisonment, based on an adjusted offense level 25 (26+2-3) and a criminal history category II; and

2. 51-63 months imprisonment, based on an adjusted offense level 23 (26-3) and a criminal history category II.

g. Fine Range. The parties understand that it shall be the judgment of the Court as to whether a fine shall be imposed upon the defendant. With an Adjusted Offense Level of 23 or 25, the guidelines fine range is \$10,000 to \$2,000,000 (U.S.S.G. § 5E1.2).

h. Supervised Release. The defendant is subject to a term of supervised release of at least four (4) years. (U.S.S.G. § 5D1.2(a)(1); 21 U.S.C. § 841(b)(1)(B)).

6. Discretion of the Court. The foregoing stipulations are binding on the parties but do not bind the Court. The parties understand that the application of the Sentencing Guidelines is a matter that falls solely within the Court's discretion. The Court may make its own determination regarding the applicable guideline factors and the applicable criminal history category. If the Court determines that the applicable guidelines calculations or the defendant's criminal history category is different from that stated above, neither party may withdraw from this agreement, and the defendant will be sentenced pursuant to the Court's determinations.

7. Special Assessment. Title 18, United States Code, Section 3013 and the Guidelines require payment of a special assessment in the amount of \$100.00 for each felony count for which the defendant is convicted. (18 U.S.C. § 3013(a)(2)(A); U.S.S.G. § 5E1.3). The defendant agrees to pay the special assessment of \$100.

8. Waiver of Appeal and Collateral Attack. The defendant understands that 18 U.S.C. § 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this right, and in exchange for the concessions made by the United States in this plea agreement, the defendant hereby waives all rights conferred by 18 U.S.C. § 3742 to appeal his sentence, unless the total sentence imposed exceeds 63 months. In addition, the defendant expressly waives the right to petition under 28 U.S.C. § 2255. The defendant has discussed these rights with the defendant's attorney. The defendant understands the rights being waived, and the defendant waives these rights knowingly, voluntarily and intelligently.

9. Complete Agreement. This Plea Agreement and Sentencing Stipulations accurately contains the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

Dated: FRANK J. MAGILL, JR.  
Acting United States Attorney

BY: TRACY L. PERZEL  
Assistant United States Attorney

Dated: \_\_\_\_\_  
AHMED HADI AL JEBORY  
Defendant

Dated: \_\_\_\_\_  
THOMAS DUNNWALD, ESQ.  
Attorney for Defendant